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ACTION: NONE INFO: FILE, RF, CR/E, EUR/DNL, Eup/RR, EUR/STE, FR, IAD/CAS-3, IAD/PE, MASS/EC, NIO/PE, NIO/USSR, NIO/WE, ODPH-H, ODPN-N, ODPN-S, OER, OGI-2, OGI/E/D, OGI/E/PSA, OGI/E/TEC, OGI/EC/IF, OGI/EC/IT, OGI/EC/TW, OGI/GD/ALA, OGI/R/MR, OIA/EREB, OIA/ERRS, OOE/EX, OOE/EI/E, OOE/EI/P, OOE/WE, OSWR/TTC, PLANFAC-E, SE/RP, SE/XED, SE/XLA, SOV/CS, SOV/CS/CA, SOV/CS/E/E, SOV/CS/E/P, SOV/CS/S/M, SOV/PA/L, SOV/SE, SOV/SE/R, SOV/SE/T,

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RUEHNA/USMISSION USNATO 0000  
RUCHDT/USMISSION USUN NEW YORK 0000  
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RUEHMO/AMEMBASSY MOSCOW 0000  
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C O N F I D E N T I A L STATE 196742

E.O. 12065: GDS 7/15/88 (BURT, RICHARD)

TAGS: EC, EEW

SUBJECT: EC NOTE PROTESTING EXTENSION OF US PIPELINE SANCTIONS

1. C - ENTIRE TEXT.
2. SUMMARY. AMBASSADOR ROLAND DE KERGORLAY, HEAD OF THE EC COMMISSION DELEGATION OFFICE, AND NIELS BODELSEN, CHARGE, DANISH EMBASSY, DELIVERED TO EUR ASSISTANT SECRETARY-DESIGNATE RICHARD BURT, WEDNESDAY EVENING, JULY 14, AN AIDE-MEMOIRE PROTESTING EXTENSION OF U.S. PIPELINE SANCTIONS. THE PROTEST IS BASED ON TRADE, LEGAL AND POLICY GROUNDS. DE KERGORLAY NOTED THAT NEGATIVE

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State Dept. review completed

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ECONOMIC IMPACT OF DECISION TO EXTEND PIPELINE SANCTIONS IS DISRUPTING TRADE AND GENERATING STRAINS WITHIN THE ALLIANCE. DE KERGORLAY REQUESTED THAT U.S. WITHDRAW RECENT EXTENSION OF SANCTIONS. BURT ACKNOWLEDGED EC CONCERNS AND EXPLAINED THAT PRESIDENT'S DECISION WAS BASED ON SITUATION IN POLAND. EUR DAS NILES STRESSED NEED FOR U.S. AND EC TO WORK TOGETHER FOR REALIZATION OF ALLIED OBJECTIVES IN POLAND. END

**SUMMARY.**

3. UNDER INSTRUCTIONS FROM EC COUNCIL OF FOREIGN MINISTERS, AMBASSADOR ROLAND DE KERGORLAY, HEAD OF EC

COMMISSION DELEGATION OFFICE, AND NIELS BUDELSEN, CHARGE, DANISH EMBASSY, DELIVERED TO EUR ASSISTANT SECRETARY-DESIGNATE RICHARD BURT FOLLOWING AIDE-MEMOIRE PROTESTING EXTENSION OF U.S. PIPELINE SANCTIONS.

**BEGIN TEXT.**

THE EUROPEAN COMMUNITY WISHES TO EXPRESS ITS STRONGEST RESERVATIONS WITH REGARD TO THE RECENT MODIFICATIONS DATED 22 JUNE 1982 TO THE EXPORT ADMINISTRATION REGULATIONS RELATING TO THE EXPORT AND RE-EXPORT TO THE U.S.S.R. OF "NON-U.S. ORIGIN GOODS AND TECHNICAL DATA AND OF FOREIGN-PRODUCED PRODUCTS OF U.S. TECHNICAL DATA." THESE REGULATIONS PURPORT TO EXTEND U.S. JURISDICTION TO COMPANIES WHICH ARE NEITHER INCORPORATED IN THE TERRITORY OF THE U.S.A. NOR CARRYING ON BUSINESS NOR RESIDENT THEREIN.

THE EXTENT OF THE JURISDICTION ASSUMED BY THESE DECISIONS AND THEIR RETROACTIVE EFFECT ON EXISTING CONTRACTS PUTS IN JEOPARDY THE BASIC PRINCIPLES OF THE WORLD TRADING SYSTEM. THE UNCERTAINTIES CREATED BY THE DECISIONS AND THEIR IMPLICATIONS ARE LIKELY TO HAVE LONG-LASTING NEGATIVE EFFECTS ON BUSINESS RELATIONS BETWEEN EUROPEAN AND AMERICAN FIRMS. THEY RISK DISCOURAGING FIRMS OUTSIDE THE U.S. FROM COOPERATING WITH U.S. COMPANIES, AND RUN COUNTER TO THE U.S. OBJECTIVE TO LIBERALIZE TRADE IN HIGH TECHNOLOGY PRODUCTS AND TO PROMOTE THE EXCHANGE OF SUCH

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TECHNOLOGY.

AS FAR AS LEGAL IMPLICATIONS ARE CONCERNED, THE EUROPEAN COMMUNITY WISHES IN PARTICULAR TO POINT OUT THE FOLLOWING:

- THIS EXTENSION OF U.S. LEGAL CONTROL TO COMPANIES WHICH ARE INCORPORATED IN THE EEC ON THE GROUND THAT THEY ARE SUBSIDIARIES OF COMPANIES INCORPORATED IN THE U.S. OR COMPANIES CONTROLLED BY CITIZENS OR RESIDENTS OF THE U.S. IS NOT WARRANTED BY PUBLIC INTERNATIONAL LAW;

- MOREOVER, THE ASSUMPTION OF JURISDICTION OVER PURELY EEC COMPANIES ON THE SOLE GROUND THAT THEY HAVE PURCHASED FROM U.S. COMPANIES TECHNOLOGICAL DATA FOR USE OUTSIDE THE U.S.A. IN ORDER TO MANUFACTURE PRODUCTS WHICH THEY SUBSEQUENTLY EXPORT TO OTHER COUNTRIES, CANNOT BE ACCEPTED BY THE COMMUNITY. SUCH AN ASSUMPTION OF JURISDICTION FINDS NO SUPPORT IN PUBLIC INTERNATIONAL LAW AND IS TANTAMOUNT TO SUBSTITUTING U.S. TRADE POLICIES AND MEASURES FOR POLICIES AND MEASURES DECIDED BY THE COMMUNITY ITSELF FOR APPLICATION WITHIN THE COMMUNITY.

THESE U.S. DECISIONS, EVEN THOUGH ADOPTED AS INTERIM MEASURES, HAVE ALREADY HAD DAMAGING EFFECTS ON INDUSTRIES IN THE COMMUNITY, THE CONSEQUENCES OF WHICH ARE PARTICULARLY SEVERELY FELT IN THE PRESENT ECONOMIC AND SOCIAL CONTEXT. THESE EFFECTS AND THE POLITICAL STRAINS WHICH RESULT FROM THEM, CAN ONLY UNDERMINE THE STABILITY AND COHESION OF THE WESTERN WORLD AND WOULD NOT BE LIKELY TO ACHIEVE THE STATED U.S. OBJECTIVES. THE UNILATERAL ACTION OF THE UNITED STATES GOVERNMENT IS IN CONTRADICTION WITH THE NEED FOR COOPERATION AND EXCHANGE OF INFORMATION ON EAST-WEST ECONOMIC RELATIONS.

THE COMMUNITY THEREFORE CALLS ON THE UNITED STATES GOVERNMENT TO WITHDRAW THE RECENT AMENDMENTS TO THE EXPORT ADMINISTRATION REGULATIONS.

WASHINGTON, D.C.  
JULY 14, 1982 END TEXT.

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4. SUPPLEMENTING SUBSTANCE OF AIDE-MEMOIRE, DE KERGORLAY NOTED THAT U.S. DECISION TO EXTEND SANCTIONS IS DISRUPTING TRADE. HE SAID THAT EVEN IF ONLY TEMPORARY. THE NEGATIVE ECONOMIC IMPACT OF THE DECISION IS GENERATING STRAINS WITHIN THE ALLIANCE. DE KERGORLAY ADDED THAT LEGALLY, THE EXTENSION OF SANCTIONS CONFLICTS WITH CURRENT EUROPEAN PRACTICES. HE REQUESTED THAT THE U.S. WITHDRAW ITS RECENT DECISION.

5. BURT EXPLAINED THAT THE PRESIDENT DECIDED TO EXTEND THE PIPELINE SANCTIONS BECAUSE THE AUTHORITIES IN POLAND AND THE SOVIET UNION FAILED TO IMPROVE THE SITUATION IN POLAND SINCE THE IMPOSITION OF MARTIAL LAW. HIS DECISION WAS A FOLLOW-UP TO THE MEASURES TAKEN IN DECEMBER 1981. BURT POINTED OUT THE IMPORTANCE OF SEEING THE EXTENSION OF SANCTIONS IN THIS CONTEXT AND ADDED THAT WE ARE PREPARED TO DISCUSS WITH THE EC THIS AND OTHER ISSUES IN US-EC RELATIONS.

6. DE KERGORLAY INDICATED THAT THE EC SHARES U.S. VIEWS ON THE SITUATION IN POLAND, BUT IS CONCERNED THAT THE EXTENSION OF U.S. PIPELINE SANCTIONS WILL DISRUPT RELATIONS WITHIN THE ALLIANCE, THEREBY AFFECTING EAST-WEST RELATIONS. NILES POINTED OUT THAT WHILE WE DISAGREE ON TACTICS, WE NOW NEED TO WORK TOGETHER FOR IMPROVEMENTS IN POLAND. HE FURTHER STATED THAT WE HOPE WE CAN PUT ON POLAND THE KIND OF PRESSURE NEEDED TO ENCOURAGE THE DESIRED RESULTS. DE KERGORLAY SAID, IN REPLY, THAT INSTEAD OF PUTTING PRESSURE ON POLAND, THE NEW U.S. MEASURES WILL PUT PRESSURE ON THE EC. HE ADDED, PARENTHETICALLY, THAT HE HOPED WE WERE NOT IMPLYING BY OUR ARGUMENTS THAT THE STATE OF US-EC RELATIONS DEPENDS ON THE GOODWILL OF THE AUTHORITIES IN POLAND.

7. THE MEETING CONCLUDED WITH BURT'S OBSERVING THAT THE PRESSURE OF SANCTIONS IS TAKING EFFECT. WE BELIEVE THEY WILL PROVE AN INCENTIVE FOR IMPROVEMENTS IN POLAND. STOESEL

END OF MESSAGE

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